

MANUEL MELLO

JANUARY 31, 1956.—Committed to the Committee of the Whole House and ordered to be printed

Mr. MILLER of New York, from the Committee on the Judiciary, submitted the following

R E P O R T

[To accompany H. R. 6673]

The Committee on the Judiciary, to whom was referred the bill (H. R. 6673) for the relief of Manuel Mello, having considered the same, report favorably thereon with amendment and recommend that the bill as amended do pass.

The amendment is as follows:

On page 2, line 3, strike out the language "in excess of 10 per centum thereof".

PURPOSE

The purpose of the proposed legislation is to reimburse Manuel Mello, of New Bedford, Mass., in the sum of \$158.21 for a judgment rendered against him in a proceeding arising out of the collision between a post-office truck he was driving and an automobile driven by Mr. Gustave A. Lammarre.

STATEMENT OF FACTS

The accident occurred on January 14, 1954, at about 1:50 in the afternoon. The streets were covered with ice and snow. The post-office truck was proceeding east on Morgan Street in New Bedford, Mass., and the Oldsmobile sedan driven by Mr. Lamarre was proceeding south on Morgan Street. The accident occurred at the intersection of the two streets. Both drivers applied their brakes, but were unable to avoid a collision.

Mr. Lamarre elected to sue Mr. Mello individually rather than the United States Government. The United States attorney's office assigned counsel to defend Mr. Mello in the action.

The Post Office Department in a report to the chairman of this committee recommended that Mr. Mello be relieved from the

payment of the judgment and costs recovered against him since it had been demonstrated that he was acting within the scope of his employment, and that the accident occurred under circumstances which ordinarily would have given rise to a settlement of the claim under the Federal Tort Claims Act.

The committee therefore recommends that this bill be considered favorably.

POST OFFICE DEPARTMENT,
OFFICE OF THE SOLICITOR,
Washington 25, D. C., September 6, 1955.

Hon. EMANUEL CELLER,
Chairman, Committee on the Judiciary,
House of Representatives.

DEAR MR. CHAIRMAN: Reference is made to your request for a report on H. R. 6673, a bill for the relief of Manuel Mello.

This bill would direct the Secretary of the Treasury to pay \$158.21 to Manuel Mello, New Bedford, Mass., reimbursing Mr. Mello for paying out of his own funds a judgment rendered against him arising out of an accident which occurred while he was driving a mail truck in New Bedford.

The report of the accident indicates that two vehicles were approaching the intersection of Cottage and Morgan Streets in New Bedford at approximately 1 p. m. on January 14, 1954. One vehicle, proceeding south on Cottage Street, was a privately owned Oldsmobile sedan being operated by Mr. Gustave A. Lamarre. The other vehicle, proceeding east on Morgan Street, was a motor vehicle used in the delivery of parcel post being operated by Mr. Mello. Both motor-vehicle operators applied their brakes and the postal motor vehicle collided with the right front fender and wheel of the private vehicle. Mr. Lamarre brought suit in the third district court of Bristol, New Bedford, Mass., seeking compensation in the amount of \$400. A judgment in favor of Mr. Lamarre was rendered in the amount of \$138.35. It is presumed that court costs and interest brought the amount which Mr. Mello had to pay to \$158.21.

Since Mr. Mello was acting within the scope of his employment under circumstances which ordinarily would have given rise to a settlement of Mr. Lamarre's claim under the Federal Tort Claims Act, it is believed that Mr. Mello should be relieved from the payment of this judgment and costs.

In view of the foregoing, this Department recommends the enactment of this legislation.

The Bureau of the Budget has advised that there would be no objection to the presentation of this report to the committee.

Sincerely yours,

ABE MCGREGOR GOFF,
The Solicitor.

NATIONAL ASSOCIATION OF LETTER CARRIERS,
Washington, D. C., September 16, 1955.

Hon. DONALD W. NICHOLSON,
House of Representatives, Washington D. C.

DEAR CONGRESSMAN NICHOLSON: In reply to your request for information on the case of Mr. Manuel Mello, I can supply the following information:

You have introduced H. R. 6673 for the relief of Manuel Mello. Mr. Mello, a letter carrier at the New Bedford, Mass., post office, was involved in an accident while driving a post-office truck in January 1954. He was sued by Adrian Lamarre, the driver of the other vehicle, and as a result of the civil court trial, Adrian Lamarre was awarded \$138.35 plus court costs, for a total of \$158.21.

The accident occurred in the following manner: On January 14, 1954, about 1:50 p. m., the post-office truck, driven by Mr. Mello, was going east on Morgan Street at about 12 to 15 miles per hour. The Lamarre vehicle was going south on Cottage Street at a speed of 20 to 25 miles per hour. The condition of the streets was very poor, due to ice and snow. Both vehicles arrived almost simultaneously at the intersection. The Lamarre car was about 18 inches ahead of the post-office truck. The truck skidded about 30 feet on the icy street, which is a

very short distance considering the condition of the streets, and would indicate that proper caution was being exercised by Mr. Mello.

Mr. Lamarre did not sue the Federal Government, as he could under the Tort Act, but he entered suit against Letter Carrier Mello. Mr. Mello applied to the United States attorney's office for counsel, and counsel was assigned to him. The counsel assigned to him did not fight the case, but immediately started out trying to work out a compromise. After trial was held, the counsel made the off-the-record admission that he should have prepared a better case.

Considering the difference in the rate of speed of the two cars; considering the fact that the streets were icy; considering further the fact that Mr. Mello was proceeding at an extremely moderate rate of speed, it appears to us that the accident was not his fault. Accordingly, we would appreciate very much anything you can do to secure passage of your bill, H. R. 6673, so that he may be reimbursed for the amount which was awarded to the other driver and which Mr. Mello had to pay out of his own pocket.

Sincerely,

JEROME J. KEATING,
Vice President.

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